



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 210603-0120]

RIN 0648-BK29

Pacific Island Fisheries; Electronic Logbooks for Hawaii and American Samoa Pelagic Longline Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to require the use of electronic logbooks in Hawaii pelagic longline fisheries and on Class C and D vessels in the American Samoa pelagic longline fishery. This proposed rule is intended to reduce human error, improve data accuracy, save time for fishermen and NMFS, and provide more rigorous monitoring and forecasting of catch limits.

DATES: NMFS must receive comments by *[insert date 30 days after date of publication in the **FEDERAL REGISTER**]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2021-0014, by either of the following methods:

- *Electronic Submission:* Submit all electronic comments via the Federal e-Rulemaking Portal. Go to <http://www.regulations.gov> and enter NOAA-NMFS-2021-

0014 in the Search box, click the "Comment" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Send written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

Instructions: NMFS may not consider comments sent by any other method, to any other address or individual, or received after the end of the comment period. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

The Western Pacific Fishery Management Council (Council) prepared a regulatory amendment that provides additional information and analyses that support this proposed rule. Copies are available from the Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8220, or www.wpcouncil.org.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be

submitted to Michael D. Tosatto (see **ADDRESSES**) and to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Lynn Rassel, NMFS Pacific Islands Regional Office Sustainable Fisheries, 808-725-5184.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the Hawaii (shallow-set and deep-set) and American Samoa longline fisheries under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP). The implementing Federal regulations for these fisheries include a suite of conservation and management requirements. Among the requirements are limited access permits, carrying at-sea observers, vessel monitoring system (VMS), daily catch and effort reporting, and a host of other gear and operational requirements.

Current regulations require vessel operators to record and submit catch information in paper logbooks, with the option to use electronic logbooks. Currently, if using paper logbooks, NMFS requires vessel operators to record catch information daily and submit the logbooks within 72 hours of returning to port after a fishing trip. If using electronic logbooks, NMFS requires vessel operators to record catch information daily and submit electronic logs

within 24 hours after the end of a fishing day. In the event of a system failure, vessel operators are required to submit electronic or paper logbooks within 72 hours of returning to port after a fishing trip.

There are approximately 144 active vessels in the Hawaii longline fisheries (shallow-set and deep-set combined) and approximately 12 active Class C and D vessels in the American Samoa longline fishery. As of March 2021, approximately 94 vessels in the Hawaii fisheries are voluntarily using electronic logbooks. No vessels are using electronic logbooks in the American Samoa fishery.

Paper logbooks require manual handling and data entry. Collecting, collating, storing, and entering data manually is costly, inefficient, and prone to errors. Additionally, NMFS and the Council manage U.S. longline bigeye tuna catch limits and allocation limits, which require forecasts of bigeye tuna catches throughout the fishing season to inform in-season management. Errors in recording and delay in data entry can result in near-term forecasting inaccuracy, potentially resulting in overages and underages of bigeye tuna catch with respect to the Western and Central Pacific Fisheries Commission (WCPFC) catch limits. Any overage in the WCPFC Convention Area would be applied to the catch limit in the subsequent year, thereby reducing the catch limit for the following year. Conversely, if forecasting inaccuracy leads to an underage, the fishery would not be

allowed to carry-over the unused catch limit to the subsequent year, resulting in a reduction in catch available to the fishery and the Nation.

In light of these inefficiencies, the Council in October 2018 recommended that NMFS implement mandatory electronic logbooks in the Hawaii pelagic longline fisheries. In June 2019, the Council requested that the NMFS Pacific Islands Fisheries Science Center convene an Electronic Technologies Steering Committee to address electronic logbook implementation challenges. In June 2020, the Council considered requiring electronic logbooks in the Hawaii and American Samoa pelagic longline fisheries. In September 2020, the Council recommended that NMFS require electronic logbooks for the Hawaii pelagic longline fisheries and for Class C and D vessels in the American Samoa pelagic longline fishery, implementation targeted for July 2021.

Pursuant to the Council's recommendation, NMFS proposes to require the use of electronic logbooks for vessels with Federal permits for the Hawaii fishery, and Class C and D Federal permits for the American Samoa fishery. This proposed rule would continue to meet existing reporting and recordkeeping requirements set forth in 50 CFR 665.14.

Under the proposed action, vessel operators would be required to use a NMFS-certified electronic logbook

(consisting of a tablet computer and software application) to record catch, effort, location, and other information, and submit it within 24 hours of the completion of a fishing day. In the event of technology malfunction with hardware, software, or transmission, NMFS would require that logbook data be submitted on paper or electronically within 72 hours of the end of the affected fishing trip.

If this rule is finalized, it would be effective no earlier than 30 days after the date of publication in the **Federal Register**. After the effective date, the requirements would be applicable to an individual permit holder after NMFS notifies the permit holder of the requirement to submit records electronically and after NMFS assigns an electronic logbook to the vessel.

NMFS would be responsible for purchasing, providing, and maintaining the tablets, software, and data transmission at no cost to fishery participants. In addition to providing the electronic logbooks, NMFS would provide vessel operators with individual user accounts and train them to use the system properly.

If a third party were to develop an electronic logbook system in the future, NMFS would work with prospective provider(s) and fishery participants to review and evaluate those systems and, if appropriate, certify them for use in the fisheries. NMFS has not determined at this time whether it would provide alternative third-party systems to the

fisheries at no cost, or if the fishery participants would be required to assume those costs.

Near real-time reporting via electronic logbooks would improve timeliness in catch reporting and add precision and reduce catch forecast inaccuracies. This proposed action would ensure that Hawaii and American Samoa longline fishermen have the opportunity to maximize sustainable catch of bigeye tuna and species, facilitate the implementation of in-season accountability measures, and meet market demands, consistent with the conservation needs of the stocks. This proposed action would also support the NMFS Policy Directive on Electronic Technologies (ET) and Fishery Dependent Data Collection (Electronic Technology Policy Directive 04-115; May 7, 2019) to complement and/or improve existing fishery-dependent data collection programs to achieve the most cost-effective and sustainable approach that ensures alignment of management goals, data needs, funding sources and regulations.

NMFS will consider public comments on this proposed rule and will announce the final rule in the **Federal Register**. NMFS must receive comments on this proposed action by the date provided in the **DATES** heading. NMFS may not consider comments postmarked or otherwise transmitted after that date. Regardless of the final rule, all other existing management measures would continue to apply in the longline fishery.

Classification

Pursuant to section 304(b) (1) (A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FEP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

Certification of Finding of No Significant Impact on Substantial Number of Small Entities

The Chief Counsel for Regulation for the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The proposed action would apply to pelagic longline fishing vessels holding Hawaii longline permits and American Samoa Class C and D longline permits under the FEP. Vessel operators would be required to record fishing data using electronic, and to submit electronic reports within 24 hours after completion of each fishing day via the NMFS-provided VMS. NMFS would provide the electronic logbooks and training. In the case of a hardware, software, or transmission failure, NMFS would allow submission of electronic or paper report forms within 72 hours of the end of each fishing trip. Implementing electronic logbooks

would take advantage of emerging technology that could reduce human error, improve data accuracy, save time for fishermen and NMFS, and provide more rigorous monitoring and forecasting of catch limits and application of in-season accountability measures. This action is needed to ensure that the Hawaii and American Samoa longline vessels have the opportunity to maximize sustainable catch of bigeye tuna and other Western Pacific pelagic management unit species under the FEP to meet market demands consistent with the conservation needs of the stocks.

Because NMFS is paying the costs of the hardware, software, data transmission, and training under the existing voluntary, and proposed mandatory, electronic reporting system, there will be minimal burdens on the fishery participants. There may be a brief training and learning period for operators to become familiar with recording and submitting electronic reports. There would be no new reporting elements for fishery participants. Only the method of reporting would change for some operators who are not already using the electronic system.

In 2019, Hawaii longline vessels landed approximately 32.8 million lb (14,874 t) of pelagic fish valued at \$94.8 million. With 146 vessels making either a deep- or shallow-set trip in 2019, the ex-vessel value of pelagic fish caught by Hawaii-based longline fisheries averaged almost \$649,000 per vessel. In 2019, American Samoa-based longline

vessels landed approximately 2.9 million lb (1,315 t) of pelagic fish valued at \$3.9 million; albacore made up the largest proportion of pelagic longline commercial landings. With 17 active longline vessels in 2019, the ex-vessel value of pelagic fish caught by the American Samoa fishery averaged almost \$230,000 per vessel.

Complete data are not yet available for 2020, but preliminary information indicates that the longline fisheries experienced a temporary decrease in revenue and other fishery performance measures, possibly resulting from travel restrictions. In Hawaii, declines in tourism led to a reduction in demand for associated goods and services including locally caught seafood. These, in turn, affected fishery landings, fish prices, and revenues. Average revenues, landings, and prices from March through July dropped 45 percent, 34 percent, and 15 percent, respectively, compared to averages for 2015-2019 (NMFS Pacific Islands Fisheries Science Center, unpublished data). In American Samoa, 2020 longline fishing activity was also likely to have been similarly adversely affected, compounded by the imposition of incoming travel restrictions, which affected the recruitment of fishing crew. However, travel and other restrictions are likely to ease, which would help boost market demand for locally caught seafood, market prices, and fishing effort.

NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. Based on available information, NMFS has determined that all vessels permitted federally under the FEP are small entities, *i.e.*, they are engaged in the business of fish harvesting (NAICS 11411), are independently owned or operated, are not dominant in their field of operation, and have annual gross receipts not in excess of \$11 million. Even though this proposed action would apply to a substantial number of vessels, the implementation of this action would not result in significant adverse economic impact to individual vessels.

Under this proposed rule, the Hawaii and American Samoa longline fisheries are not expected to expand substantially or change their operations (*i.e.*, area fished, number of vessels and trips, number and depth of hooks, or deployment techniques). The proposed rule does not duplicate, overlap, or conflict with other Federal rules and is not expected to have significant impact on small organizations or government jurisdictions.

Furthermore, there would be little, if any, disproportionate adverse economic impacts from the proposed action based on gear type, or relative vessel size. The proposed action also will not place a substantial number of small entities, or any segment of small entities, at a significant competitive disadvantage to large entities.

For the reasons above, NMFS does not expect the proposed action to have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This rule revises the existing requirements for the collection of information under Office of Management and Budget (OMB) Control Number 0648-0214 Pacific Islands Logbook Family of Forms by requiring the use of electronic logbooks in Hawaii pelagic longline fisheries and on Class C and D vessels in the American Samoa pelagic longline fishery. This revision is not expected to affect the number of respondents or anticipated responses and is expected to reduce the number of burden hours and burden cost to fishermen. Public reporting burden for completing an electronic logbook form

for a completed fishing day is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Submit comments on these or any other aspects of the collection of information at www.reginfo.gov/public/do/PRAMain.

Notwithstanding any other provisions of the law, no person is required to respond or, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR 665

Administrative practice and procedure, Hawaii,
American Samoa, Fisheries, Fishing, Longline, Pacific
Islands, reporting and recordkeeping requirements.

Dated: June 4, 2021.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory
Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes
to amend 50 CFR part 665 as follows:

PART 665 -- FISHERIES IN THE WESTERN PACIFIC

1. The authority citation for 50 CFR part 665
continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 665.14 revise paragraph (b) to read as
follows:

§ 665.14 Reporting and recordkeeping.

* * * * *

(b) *Fishing record forms* -

(1) *Applicability.*

(i) Paper records. The operator of a fishing vessel subject to the requirements of §§ 665.124, 665.142, 665.162, 665.203(a)(2), 665.224, 665.242, 665.262, 665.404, 665.424, 665.442, 665.462, 665.603, 665.624, 665.642, 665.662, 665.801, 665.905, 665.935, or 665.965 must maintain on board the vessel an accurate and complete record of catch, effort, and other data on paper report forms provided by the Regional Administrator, or electronically as specified and approved by the Regional Administrator, except as required in paragraph (b)(1)(ii) of this section or as allowed in paragraph (b)(1)(iv) of this section.

(ii) Electronic records.

(A) The operator of a fishing vessel subject to the requirements of § 665.801(b) or a Class C or D vessel subject to the requirements of § 665.801(c) must maintain on board the vessel an accurate and complete record of catch, effort, and other data electronically using a NMFS-certified electronic logbook, and must record and transmit electronically all information specified by the Regional Administrator within 24 hours after the completion of each fishing day.

(B) After the Regional Administrator has notified a permit holder subject to this section of the requirement to submit records electronically, and after the vessel has acquired the necessary NMFS-certified equipment, the vessel and any vessel operator must use the electronic logbook. A vessel operator must obtain an individually assigned user account from NMFS for use with the electronic logbook.

(C) Permit holders and vessel operators shall not be assessed any fee or other charges to obtain and use an electronic logbook that is owned and provided by NMFS. If a permit holder or vessel operator subject to this section does not use a NMFS-owned electronic logbook, the permit holder and operator must provide and maintain an alternative NMFS-certified electronic logbook.

(D) If a vessel operator is unable to maintain or transmit electronic records because NMFS has not provided an electronic logbook, or if NMFS or a vessel operator identifies that the electronic logbook has experienced equipment (hardware or software) or transmission failure, the operator must maintain on board the vessel an accurate and complete record of catch, effort, and other data electronically or on paper report forms provided by the Regional Administrator.

(iii) The vessel operator must record on paper or electronically all information specified by the Regional Administrator within 24 hours after the completion of each

fishing day. The information recorded must be signed and dated, or otherwise authenticated, in the manner determined by the Regional Administrator, and be submitted or transmitted via an approved method as specified by the Regional Administrator, and as required by this section.

(iv) In lieu of the requirements in paragraph (b)(1)(i) of this section, the operator of a fishing vessel registered for use under a Western Pacific squid jig permit pursuant to the requirements of § 665.801(g) may participate in a state reporting system. If participating in a state reporting system, all required information must be recorded and submitted in the exact manner required by applicable state law or regulation.

(2) *Timeliness of submission.*

(i) If fishing was authorized under a permit pursuant to §§ 665.142, 665.242, 665.442, 665.404, 665.162, 665.262, 665.462, 665.662, or 665.801, and if the logbook information was not submitted to NMFS electronically within 24 hours of the end of each fishing day while the vessel was at sea, the vessel operator must submit the original logbook information for each day of the fishing trip to the Regional Administrator within 72 hours of the end of each fishing trip, except as allowed in paragraph (b)(2)(iii) of this section.

(ii) [Reserved]

(iii) If fishing was authorized under a PRIA bottomfish permit pursuant to § 665.603(a), PRIA pelagic troll and handline permit pursuant to § 665.801(f), crustacean fishing permit for the PRIA (Permit Area 4) pursuant to § 665.642(a), or a precious coral fishing permit for Permit Area X-P-PI pursuant to § 665.662, the original logbook form for each day of fishing within EEZ waters around the PRIA must be submitted to the Regional Administrator within 30 days of the end of each fishing trip.

(iv) If fishing was authorized under a permit pursuant to §§ 665.124, 665.224, 665.424, 665.624, 665.905, 665.935, or 665.965, the original logbook information for each day of fishing must be submitted to the Regional Administrator within 30 days of the end of each fishing trip.

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